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DATE: 2/17/09

TO: JEAN

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FROM: JOE PARILLO
California Public Employees' Retirement System

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NUMBER OF PAGES (including cover page): 3

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NOTES OR COMMENTS:



San Juan Water District

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February 11, 2009

Mr. Joe Parilo, Acting Regulations Coordinator
 California Public Employees' Retirement System
 P. O. Box 942702
 Sacramento, CA 94229-2702

Directors
 Edward J. "Ted" Costa
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General Manager
 Shauna Lorange

Re: Notice of Proposed Regulatory Action — Proposed Amendments to Article 7.6, Title 2 of the California Code of Regulations Concerning Participation in Risk Pools

Dear Mr. Parilo:

Please accept these written comments of the San Juan Water District regarding the proposed amendments to the regulations referenced above. As listed in the notice, changes will be made to codify the existing practices with respect to the effective date of risk pool mandated benefits. In addition, CalPERS would retain the authority to place new contracting agencies that would normally be required to be risk pooled in a non-pooled plan if it is necessary to protect existing risk pooled employers from unfavorable costs associated with new contracting agencies.

The San Juan Water District was placed in the 3% @ 60 Risk Pool on June 30, 2003 as a result of mandated risk pooling for employer plans with less than 100 active members. Since that time, the District's Board of Directors has expressed concerns that participation in this risk pool has the potential to negatively impact the District's funded status and corresponding employer contribution rate. As a result, the District contracted with EPI Actuaries, Inc. to review participation in CalPERS, project contributions into the future and evaluate options for managing contributions. Through this process, the District learned that due to current demographics and actuarial experience, the risk pool actually benefits from the District's participation.

While the Board recognizes that this could change over time as demographics for the District change, it does not provide reassurance on the value of risk pools. The Board understands the intention of risk pools. However, it also recognizes the significant exposure to all employers within the pool of actuarial experience of individual employers. Risk pooling should not have been created such that one agency would financially support the benefits of other agencies.

While the District supports the currently proposed amendments to the risk pool regulations, the proposed amendment to Section 588.2 will not ensure that existing risk pool agencies are not adversely impacted by the experience of new pool participants. Existing risk pool agencies such as the District cannot control the pool. This is because the regulations, as currently proposed to be amended, do not provide existing risk pool agencies with any meaningful control either over the participation of new members or how other existing pool agencies might alter benefits to increase costs for all other risk pool members.

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To address the above concerns, the District first proposes adding additional language to the current staff proposal to amend Section 588.2. The new language would ensure that existing risk pool agencies have some input into controlling pool costs before a new contracting agency could join a pool. In specific, the District proposes to add the following additional language at the end of Section 588.2 in its currently proposed form: "If the Board of Administration holds a hearing to determine whether the proposed participation of a new contracting agency in a risk pool would be unfavorable to existing member agencies, the Board shall provide notice of and an opportunity to participate in the hearing to all agencies already in the affected risk pool."

The District also believes the regulations should be further amended before final approval to address the enrichment of pension benefits by an existing member contracting agency, which results in a significant impact on the costs of the other agencies in the affected risk pool. Of particular concern are employers who substantially increase the scope of their retirement packages after joining a risk pool or who permit "spiking" by radically increasing salaries of employees just prior to their retirements or increasing the scope of what constitutes final compensation for pension calculation purposes. To avoid a situation where one existing risk pool agency might increase all other pool members' costs through spiking, the CalPERS Board of Administration should consider adopting reasonable standards for employer cost containment purposes and for providing staff sufficient authority to terminate those pool agencies who refuse to participate in mandated cost containment measures. Alternatively, such a regulation should provide contracting agencies that engage in reasonable cost containment practices to opt out of any pool where other member agencies significantly increase pool costs by granting lavish compensation packages.

The District has adopted an anti-spiking and final compensation policy that prohibits significant increases in final compensation and limits what types of compensation may be used to calculate employees' pension benefits. The District believes that its policy would be a good model for a regulation on this issue and has attached a copy of the policy for review by CalPERS' Board members and staff. The District also would be happy to participate in drafting and commenting on an appropriate cost containment regulation should the Board of Administration decide to include such a regulation in this rule-making package.

Thank you again for the opportunity to comment on the proposed amendments to the risk pool regulations.

Sincerely,



Robert Walters
President, Board of Directors
San Juan Water District

SAN JUAN WATER DISTRICT
EMPLOYEE MANUAL

POLICY TYPE : Retirement
POLICY TITLE : Public Employees' Retirement System
POLICY NUMBER : 13010
DATE ADOPTED : May 12, 2002
DATES AMENDED : February 14, 2007

13010.00 PUBLIC EMPLOYEES' RETIREMENT SYSTEM

13010.01 Introduction

Within the constraints of applicable laws and regulations, the Board of Directors of San Juan Water District has the legal authority to determine compensation for purposes of the retirement benefits of District employees under the District's retirement plan pursuant to the contract between the District and CalPERS ("Retirement Plan"). The purpose of this policy is to: (1) confirm the items that the District includes as compensation for the purpose of calculating the retirement benefits of District employees under the Retirement Plan; (2) confirm that any change in what constitutes compensation for the purpose of calculating the retirement benefits of District employees would require prior Board approval; and (3) institute measures to ensure that the retirement benefits of District employees are calculated according to this policy.

13010.02 Membership

The District is a member of the Public Employees' Retirement System of the State of California and membership is compulsory for all employees except those specifically excluded. Exclusions include:

Special contract exclusions;
Employees who work less than 1,000 hours.

In the event of any conflict between this Manual and the more detailed provisions in the PERS Law or contract, the Law and contract shall govern.

13010.02(a) What Constitutes Compensation Under the Retirement Plan

The Retirement Plan, consistent with applicable law, requires including an employee's basic pay rate in "compensation" for the purpose of calculating the retirement benefits of District employees under the Retirement Plan. (See California Government Code section 20630.) In calculating total compensation, the only permissible addition is "special compensation." (See California Government Code section 20636.)

Special compensation is limited to additional compensation that is received by employees similarly situated in a group or class of employment pursuant to a labor policy or agreement, or as otherwise required by state or federal law.

The Board of Directors has approved including the following items as special compensation for the purpose of calculating the retirement benefits of District employees under the Retirement Plan:

"Incentive Award Program" compensation approved consistent with section 3090.00 of the District's "Employee Policy and Procedures Manual" (pursuant to California Government Code section 20636(c)(1) and (2));

The "pick-up" of required employee contributions to the Retirement Plan consistent with section 13010.066 of the Employee Manual (pursuant to California Government Code section 20636(c)(4)); and

The employee uniform allowance consistent with section 7040.03 of the Employee Manual (pursuant to California Government Code section 20636(c)(6)), subject to the determination under applicable law (e.g., Ventura County Deputy Sheriff's Association v. Board of Retirement of Ventura County (1997) 16 Cal. 4th 483) that the employee uniform allowance under the District's Employee Manual is required to be included as special compensation under the Retirement Plan.

Base monthly pay under the Retirement Plan is reduced by \$133.33 to reflect the exemption from CalPERS benefits of the first one-third of maximum social security earnings.

The District's Board of Directors strictly prohibits and will not engage in "pension spiking". Pension spiking is the process whereby public sector employees are granted large salary increases that artificially inflate their compensation in the years immediately preceding retirement in order to receive larger pensions than they otherwise would be entitled to receive. In addition, CalPERS performs audits of public agencies participating in the system to further ensure the validity of reported membership and payroll information.

13010.02(b) The Process for Amending the Retirement Plan

Any change in what constitutes compensation under the Retirement Plan, or any other amendment of the Retirement Plan, requires approval of the District's Board of Directors of an amendment in the contract for the Retirement Plan, confirmed in a Board resolution.

13010.02(c) Measures to Ensure Compliance with this Policy

In connection with the preparation of the District's annual independent financial audit, the District's Finance and Administrative Manager will certify in writing that compensation for the purpose of calculating the retirement benefits of District employees under the Retirement Plan has been reported in a manner that is consistent with this policy. The District's independent financial auditor will be requested to confirm as part of its annual report to the Board that compensation for the purpose of the Retirement Plan has been reported in a manner that is consistent with this policy. The District's General Manager will report to the Board when CalPERS retirement program benefits are changed.

13010.03 Service Retirement

The earliest retirement age is 50. The normal retirement age is 60. An employee may retire any time after age 50, provided the employee meets the minimum requirement of having 5 years of service.

The monthly income is determined by age at retirement, years of credited service and "final compensation." The basic benefit will be 3% of "final compensation" for each year of credited service upon retirement at age 60. If retirement is deferred beyond age 60, the percentages of "final compensation" for each year of service remains the same. If retirement is earlier than age 60, the percentages of "final compensation" for each year of service are decreased. "Final compensation" is based on the highest consecutive 12 months earnings.

13010.04 Disability Retirement

Disability retirement is available through the California Public Employees Retirement System.

13010.05 Death Benefits

Death Before Retirement

Basic Death Benefit: This benefit is a refund of the member's accumulated contributions, plus six months salary, provided he/she has been a member for six years or more. For those who die before completing six years of membership, the benefit is one month's salary for each year of membership, plus refund of contributions. The salary referred to is that earned during the year preceding death. Prior service does not count toward this benefit.

Death After Retirement

The death benefit is \$500 if death occurs after retirement. This amount will be in addition to any payments, which might be made under an optional retirement benefit chosen by the member at his/her retirement.

13010.06 Termination of Employment

Upon termination of employment, an employee with 5 or more years of service may either leave his/her contributions with the System and receive, upon attaining retirement age, the retirement benefit he/she has earned, or he/she may withdraw his/her contributions (plus interest), thus terminating his/her membership in the System and receiving no retirement benefits.

A member with less than 5 years of service shall not have the privilege of leaving his/her contributions with the System, unless transferring to employment with another agency that is covered under PERS. Those employees who are not going to be employed at another

PERS-covered agency, will automatically have his/her contributions, plus interest, refunded upon termination of employment.

13010.07 Contributions

Each employee is required by PERS to contribute 8% of the employee's gross salary, exclusive of overtime, less FICA contribution. The 8% "employee's contribution" is paid in full by the District on behalf of the employee.

Overtime, as mentioned above, is not subject to PERS, nor is additional vacation or sick pay. Additional vacation and sick pay is that amount above the regular 8 hours of pay received during a normal pay period.

PERS requires that 8% of the amount paid to provide uniforms to those employees requiring uniforms is an "employee's contribution." This employee contribution is paid in full by the District on behalf of the employee.

The District also contributes additional sums toward the cost of the PERS benefits. All District contribution rates are established, and subject to revision, by the Board of Administration of PERS.
